STATUS OF CLAIMS

Claims 1-23 are pending.

Claims 1-23 stand rejected by the Examiner.

Claims 1-5, 14-17 and 22-23 have been amended, without prejudice, herein.

Claim 21 has been cancelled without prejudice herein.

CHANGE OF CORRESPONDENCE ADDRESS

Applicant has previously submitted a new Power of Attorney and a change of correspondence address requesting all correspondence regarding this application be addressed to the address associated with Customer Number 45,722.

REMARKS

Reconsideration of this application is requested.

Claims 1-23 stand rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond (United States Patent No. 6,698,020). In response, Applicant has amended Claims 1 and 14 to recite features and limitations neither disclosed nor suggested by the prior art of record. Dependent claims 2-5, 15-17 and 22-23 have also been amended to be consistent with the claims from which they depend. Claims 4, 17 and 22 have been amended to eliminate multiple dependencies. No new matter has been added by these amendments.

Claim 1 as amended recites *inter alia*,

> storing data indicative of the viewer selected TV program <u>and data indicative of at least some others of the TV programs competing with the viewer selected TV program</u>; [and]
> determining viewing preferences using the stored data indicative of the user selected TV program <u>and data indicative of at least some others of the TV programs competing with the viewer selected TV program</u>.

Support for the amendments to Claim 1, and each of the other claims presently appearing in the subject application, can be found throughout the application as originally filed. By

way of further example only, support for the amendments to Claim 1 may be found at

pages 21-23 of the application as originally filed, wherein it teaches:

> Program Selection Device 100 monitors each user's viewing actions and selection of TV programs being watched. This is stored in a storage device or in memory in the form of selection history data 189 (see FIG. 15). The schematic representation of selection history data is given in FIG. 14. The "Number of selection records", 180 represents the number of user selection choices stored in the selection history data. <u>Each selection record 181, contains the information on the actual programs watched 185 along with information on the competing programs available at that time 186.</u> Storing program information is required as the EPG may not be able to provide information on past programs. Information on these program may be obtained directly from the EPG data when the information is obtained while the program is still current. The time 183 and duration 182 for which a program was watched also form a part of the selection record. As illustrated in FIG. 15, a uses selection history 189 is derived from each choice 187 made by the user along with program information from the EPG 104.
>
> One process of learning the user preferences of a specific individual is illustrated in FIG. 16. The liking distribution in the representative sample for traits identified by data analysis, 118, are used by the Liking Function to minimize the effect of error introduced because of lack of sufficient sampling in the computation of the liking of the identified traits by an individual. An individual user's response to setup question 190 may also be factored in determining initial values of liking for that individual 192.
>
> A user selection history 189 is maintained for a fixed number of hours. The number of hours for which the user selection history is maintained can be preferably changed to have an increased rate of learning during initial days of a new user using the device. Average Error is computed N 194, in a similar manner as for users; in the representative sample, as previously described in FIG. 6. If the average error is greater than a tolerable limit 195, new liking values are computed 198. Entries in the user selection history are moved to the Past selection history. If the Average error remains under a tolerable limit the liking values are computed only after a predefined number of hours 196. (<u>Emphasis added</u>)

Accordingly, no new matter has been added. The Zigmond reference fails to disclose, teach or suggest such an approach.

Zigmond teaches that identifying characteristics of the viewer, content of the video programming, the geographical location, or other un-enumerated factors, are used in combination with ad selection criteria in order to select for display an appropriate advertisement. *See, e.g., col. 4, ll. 25-29.* However, a detailed reading of Zigmond reveals that to the extent Zigmond uses the viewing habits of a user, it is limited to monitoring the times of day that programming is watched, the amount of time spent viewing particular channels, the preferred type of programming, Internet sites visited and the like. That is, Zigmond does not teach, or even suggest for that matter, using any information indicative of what the user did not select, and clearly fails to teach or suggest using data indicative of at least some others of the TV programs competing with the viewer selected TV program — as is recited by amended Claim 1.

Accordingly, as Zigmond fails to teach each of the limitations of presently appearing Claim 1, Applicant submits Zigmond fails to render claim 1 unpatentable under 35 USC 102. Reconsideration and removal of the rejection of Claim 1 is requested. Applicant also requests reconsideration and removal of the rejections of Claims 2-13 as well, at least by virtue of these claims' ultimate dependence from patentably distinct base Claim 1.

In similar fashion, independent Claim 14 has been amended to recite *inter alia*:

> storing data indicative of viewer selected ones of the TV programs and at least some others of the TV programs competing with the viewer selected TV programs; [and]
> determining viewing preferences using the stored data indicative of the user selected TV program and stored data indicative of at least some others of the TV programs competing with the viewer selected TV programs.
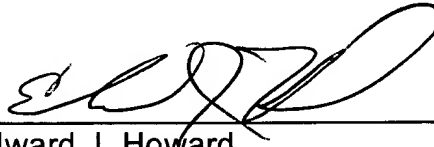
Reconsideration and removal of the rejection of Claim 14 is requested for at least the foregoing reasons as well. Applicant also requests reconsideration and removal of the rejections of Claims 15-20 and 22-23, at least by virtue of these claims' ultimate dependence from patentably distinct base Claim 14.

CONCLUSION

Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,

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